APPENDIX

FEDERAL STATUTES

A portion of Section 29 of the Act of Congress of June 28, 1898, ratified August 24, 1898, commonly known as the Atoka Agreement (30 Stat. 495), is as follows:

> "All the lands allotted shall be non-taxable while the title remains in the original allottee, but not to exceed twenty-one years from date of the patent."

On account of the slight degree of Indian blood of McCoy, by Section 1 of the Act of Congress of May 27, 1908, 35 Stat. 312, all restrictions on the alienability of his land were removed.

STATE STATUTES

Section 9971, C. O. S. 1921:

> "In all cases where the illegality of the tax is alleged to arise by reason of some action from which the laws provide no appeal, the aggrieved person shall pay the full amount of the taxes at the time and in the manner provided by law, and shall give notice to the officer collecting the taxes showing the grounds of complaint and that suit will be brought against the officer for recovery of them. It shall be the duty of such collecting officer to hold such taxes separate and apart from all other taxes collected by him, for a period of thirty days, and if within such time summons shall be served upon such officer in a suit for recovery of such taxes, the officer shall further hold such taxes until the final determination of such suit. All such suits shall be brought in the

court having jurisdiction thereof, and they shall have precedence therein; if, upon final retermination of any such suit, the court shall determine that the taxes were illegally collected, as not being due the state, county or subdivision of the county, the court shall render judgment showing the correct and legal amount of taxes due by such person, and shall issue such order in accordance with the court's findings, and if such order shows that the taxes so paid are in excess of the legal and correct amount due, the collecting officer shall pay to such person the excess and shall take his receipt therefor."

Section 9973, C. O. S. 1921:

"None of the acts herein required to be done shall be enjoined by a court of equity, but any person aggrieved in any matter of collection, assessment or levy of any tax herein provided for shall pay the tax at the time and in the manner provided by law, except as stated in Section 2, Article 2-B, hereof, and at the time of payment shall file a written statement with the State Auditor, under oath, as provided in Sections 10-11, Article 2-B, hereof, fully setting forth his complaint. The Auditor shall retain the payment as a special deposit to await the final decision on said complaint. And thereupon the same right of hearing and review shall be had upon said complaint as provided for herein in Sections 10-11 of Article 2-B hereof."

In 1916 the Legislature of Oklahoma passed its gross production tax statute (C. O. S. 1921, Sec. 9814), providing, among other things, for the payment of a tax of 3% of the gross value of production of petroleum or other crude or mineral oil, the same to be paid quarter annually for the periods ending with March, June, Sep-

tember and December of each year, and is payable in thirty days after each period. The act provides also that the owner of the royalty should pay such tax upon his royalty interest and excepted royalty interest of the state and such royalty interests as are exempted from taxation under the laws of the United States and provided that such tax upon the royalty interest should be a lien thereon.

The act also provided that such payment was in lieu of and is a payment of all taxes upon any property rights attached to or inherent in the rights to said minerals, upon leases for the mining of petroleum or other crude or mineral oil and upon the mining rights and privileges for the minerals aforesaid belonging or appertaining to land and upon the machinery, appliances and equipment in and around any well producing petroleum or other crude or mineral oil and actually used in the operation of such well and also upon the oil mentioned during the tax year in which the same is produced, and upon any investments in any of the leases, rights, privileges, minerals or property mentioned.

In 1925 (S. L. 1925, page 20) the Legislature of Oklahoma passed an act purporting to authorize the State Auditor to order the lessee or purchaser of the oil to withhold from the land owner a sufficient part of his royalty to pay the tax in case the land owner failed

to pay the same; Section 2 of said Act, which became effective April 2, 1925, is as follows:

> "The purchaser of all oil, gas or other minerals as hereinbefore referred to, shall recognize the State Auditor's order to withhold payment for all production wherein the gross production tax and penalty are unpaid until such tax and penalty are paid, and on failure of the producer or royalty owner to pay such tax and penalty the purchaser of such production shall, on order of the State Auditor, pay such tax and penalty and his receipt therefor shall be accepted by such producer or royalty owner in lieu of cash in settlement for such production."